S.B. CIVIL WRIT PETITION NO.686/2004
(Pratap Ram vs. Board of Revenue & Ors.)

Date :: 22.03.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.A.K. Singh, for the petitioner.
Mr.S.N. Tiwari, Dy. Govt. Advocate.

Heard learned counsel for the petitioner and perused the order impugned dated 31st October, 2003 (Annexure-10).

It is contended by learned counsel for the petitioner that reason for dismissing the revision petition filed by the petitioner is that petitioner has not preferred any appeal against the allotment of 8 bighas of land as small patch to respondent No.2. In this regard, it has been mentioned at page No.2 of the order that,

> "इस प्रकरण में स्थिति भिन्न है । इस प्रकरण में अप्रार्थी सं० 2 को मुरब्बा नंम्बर 229/58 की कुल आठ बीघा भूमि दिनांक 24/7/89 को आवंटन की गई है जिसके सम्बन्ध में प्रार्थी द्वारा कोई अपील निगरानी आदि सक्षम न्यायालय में किया जाना नहीं पाया जाता है ।"

Whereas it is submitted by learned counsel for the petitioner that this assertion is totally wrong because at page No.2 it is specifically mentioned by the petitioner in his revision petition that he has preferred an appeal against the said allotment order before the Appellate Authority, Bikaner in which stay was granted. He has also

pointed out that the copy of appeal which is filed by him is also on record as Annexure-5.

I have perused the prayer of that appeal which reads as under:

> "अत: अपील प्रस्तुतकर निवेदन है कि अपील स्वीकार की जाकर अधिनस्थ न्यायालय का आदेश जेर अपील निरस्त फरमाया जावे। खर्चा व हर्जा रेस्पोडेन्ट नम्बर 2 से दिलाया जावे क्योंकि उसने जान बुझ कर पटवारी से साजिस कर गलत रिपोर्ट करवा कर आवंटन करा कर अपीलान्ट को परेशान किया है।"

The reason for dismissing the revision petition mentioned in the order is totally contrary to the record. Therefore, the order passed by the Revenue Board dated 31st October, 2003 has been passed while ignoring the fact that the appeal was filed by the petitioner against the allotment made in favour of respondents which is still pending as stated by the learned counsel for the petitioner.

Hence the order impugned dated 31st October, 2003 passed in revision by the Revenue Board, Ajmer is set aside and case is remitted to the Revenue Board with the direction to decide the revision petition afresh. The Revenue Board is also directed to take into consideration the fact that the appeal against the allotment made in favour of respondent No.2 has already been filed by the petitioner and the same is pending before the Revenue Appellate Authority, Bikaner and also consider the case of the petitioner afresh

and pass the judgment within a period of three months from the receipt of copy of this order.

The these directions, the present petition is allowed.

[GOPAL KRISHAN VYAS],J.

A.K. Chouhan/-